

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 476.86, and 476.87, the Utilities Board (Board) gives notice that on April 22, 2014, the Board issued an order in Docket No. RMU-2014-0001, In re: Amendments to Competitive Natural Gas Provider Rules to Address Natural Gas Vehicle Fuel Providers [199 IAC 2.2(18) and 19.14], “Order Commencing Rule Making,” proposing to amend the Board’s competitive natural gas provider (CNGP) rules to allow flexibility in developing separate application forms for CNGPs offering large volume service, small volume service, and natural gas as vehicle fuel. The Board is also proposing to amend the CNGP annual report filing requirements and is updating the Board Duty Officer notification rules.

Iowa Code section 476.86 defines “competitive natural gas provider” as “a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa.” Iowa Code section 476.86 defines “aggregator” as “a person who combines retail end users into a group and arranges for the acquisition of competitive natural gas services without taking title to those services.” Board rules refer to both competitive natural gas providers and aggregators as CNGPs. The current rule, 199 IAC 19.14(3), requires that applications for a CNGP certificate provide all of the applicable information in 199 IAC 2.2(18). The application form in 199 IAC 2.2(18), paragraphs “1” to “5,” “7” and “8,” describes in detail the information that a person is required to file in support of a CNGP certificate. Numbered paragraph 6 of the application requires persons requesting a CNGP certificate to serve small volume customers to provide additional information as follows:

6. Applicants who will be serving small volume customers must provide a demonstration that the applicant has the operational and financial capability to obtain and deliver the services it proposes to offer. At a minimum, applicants are required to submit financial statements. The applicant must submit a balance sheet, statement of income, statement of cash flow, and, if applicable, a statement of shareholders’ equity and the applicant’s debt structure, including bond rating. As a demonstration of the applicant’s operational ability, the applicant must submit a roster of officers and directors, a description of the professional backgrounds of the applicant’s principal managerial and technical personnel, an operational flow chart, and a description of the applicant’s facilities and the services it intends to render. A request for confidential treatment for this information may be filed with the board, pursuant to 199—subrule 1.9(6).

The Board proposed in Docket No. RMU-2013-0001 to amend the CNGP rules in 199 IAC 19.14(476) (but not the application form in 199 IAC 2.2(18)) in order to address CNGPs operating as vehicle fuel providers (VFPs) (See **ARC 1169C**, IAB 11/13/13). Based upon comments during that rule making, the Board decided not to adopt the amendments proposed in Docket No. RMU-2013-0001 and instead is opening this new rule-making docket to address CNGP rules on a more comprehensive basis. The proposed amendments in this rule making address not only the application filing requirements for VFPs but also the different application forms for those CNGPs wishing to provide service to large volume customers or small volume customers, or both.

The Board is proposing to amend 199 IAC 2.2(18) to remove the application form from 2.2(18) and replace the form with language indicating that application forms are available on the Board’s Web site.

By removing the current application from 2.2(18), the Board will have the flexibility to create separate forms for CNGPs providing large volume service, CNGPs providing small volume service, and CNGPs providing vehicle fuel service and to amend and revise those forms in response to industry changes. The proposed amendments are similar to the current provisions for forms required for electric franchises and natural gas pipeline permits located in 199 IAC 2.4(17A,474). That rule lists the forms for each of those processes and states that forms are available upon request.

The Board is also proposing to amend 199 IAC 19.14(476) to state that application forms for those wishing to obtain a certificate to provide CNGP service to large volume, small volume, or vehicle fuel customers can be found on the Board's Web site. The proposed amendments to rule 199 IAC 19.14(476) include language reflecting the statutory requirement that persons requesting a CNGP certificate reasonably demonstrate the managerial, technical, and financial capability to provide the service being offered.

The Board is proposing to amend the CNGP annual filing requirements found in 199 IAC 19.14(5)“c” in the same way that is being proposed for the CNGP application form. Currently, 199 IAC 19.14(5)“c” describes the specific information that a CNGP is required to file in the annual report. Under current procedures, CNGPs are contacted by the Board with information for locating the annual report form on the Board's Web site. The Board is proposing to remove the descriptions of the information required in the annual report in 19.14(5)“c” and only require in the rules the filing of the annual report. The specific information that would be required from each type of CNGP would then be described in the annual report form which will be accessible on the Board's Web site. This will allow timely modifications to the form as necessary.

The Board is also proposing updates to those provisions in the rules that address contacting the Duty Officer about incidents and outages. The preferred method of contacting the Duty Officer is by e-mail, and the Board is proposing amendments to indicate this preference.

The order approving this Notice of Intended Action can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2014-0001.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before June 3, 2014. The statement should be filed electronically through the Board's EFS. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments must be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

The Board has not scheduled an oral presentation for the proposed amendments. Any request for the Board to schedule an oral presentation must be filed in the same manner as comments on or before June 3, 2014.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will have a beneficial effect on the ability of persons wishing to offer competitive natural gas provider service, including natural gas vehicle fueling service, in Iowa and therefore on jobs in Iowa, by reducing regulatory burdens, although that effect cannot be quantified.

These amendments are intended to implement Iowa Code sections 17A.4, 476.86 and 476.87.

The following amendments are proposed.

ITEM 1. Amend subrule 2.2(18) as follows:

2.2(18) *Application forms for certification of competitive natural gas ~~provider~~ (CNGP) providers.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

IN-RE:	}	DOCKET NO. (insert docket no.)
(insert applicant name)		APPLICATION FOR CERTIFICATION OF COMPETITIVE NATURAL GAS PROVIDER OR AGGREGATOR

COMES NOW (insert name of person or entity requesting the certificate) and files this application for a certificate as a competitive natural gas provider or aggregator (CNGP), and in support thereof states:

1. The legal name and all trade names under which the applicant will operate, a description of the business structure of the applicant, evidence of authority to do business in Iowa, and the applicant's state of incorporation.

2. The names, business addresses and business telephone numbers of the principal officers of the applicant who can be contacted regarding its operations in Iowa and telephone number(s) at which the CNGP can be contacted 24 hours a day.

3. Identification of affiliates that are certified under 199—19.14(476) and a listing of the names and addresses of all the applicant's affiliates engaged in the provision of competitive natural gas services in any other state.

4. A listing of all legal actions and formal complaints pertaining to the provision of competitive natural gas services filed against the applicant or its affiliates at a public utility regulatory body other than the board that were pending in the 12 months prior to the date of the request for certificate, including identification of the title and number of applicable proceedings and a copy of the final orders in such proceedings or the citation to the website where the text of the orders can be found.

5. Identification of the states and jurisdictions in which the applicant or an affiliate has had a license or certificate to supply competitive natural gas services suspended, revoked, or denied, or where the applicant has voluntarily withdrawn from providing service due to financial or operational reasons. Applicant shall include identification of the title and number of any applicable proceedings and a copy of any final orders in such proceedings or the citation to the website where the text of the orders can be found.

6. Applicants who will be serving small volume customers must provide a demonstration that the applicant has the operational and financial capability to obtain and deliver the services it proposes to offer. At a minimum, applicants are required to submit financial statements. The applicant must submit a balance sheet, statement of income, statement of cash flow, and, if applicable, a statement of shareholders' equity and the applicant's debt structure, including bond rating. As a demonstration of the applicant's operational ability, the applicant must submit a roster of officers and directors, a description of the professional backgrounds of the applicant's principal managerial and technical personnel, an operational flow chart, and a description of the applicant's facilities and the services it intends to render. A request for confidential treatment for this information may be filed with the board, pursuant to 199—subrule 1.9(6).

7. A commitment to comply with all the applicable conditions of certification contained in 199—subrules 19.14(5) and 19.14(6). Acknowledgement that failure to comply with all the applicable conditions of certification may result in the revocation of the CNGP's certificate.

8. A copy of the standard customer contract(s) and disclosure statement required by 199—paragraph 19.14(6) "c."

Application forms for persons wishing to request a certificate to provide service as a competitive natural gas provider or aggregator in Iowa pursuant to Iowa Code sections 476.86 and 476.87, and 199—19.14(476), can be accessed on the board's Web site, <http://iub.iowa.gov>, or may be obtained upon request from the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319.

ITEM 2. Amend rule ~~199—2.2(17A,474)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 17A.9A, 474.6, ~~476.6 and 476.8~~ 476.86 and 476.87.

ITEM 3. Amend subrule 10.17(4) as follows:

10.17(4) The board shall be notified, as soon as practical, of any reportable incident by e-mail to the duty officer at dutyofficer@iub.iowa.gov or, if e-mail is not available, by calling the board duty officer at (515)745-2332 ~~or by e-mail to dutyofficer@iub.iowa.gov~~.

ITEM 4. Adopt the following **new** definition of “Vehicle fuel provider” in subrule **19.14(1)**:

“*Vehicle fuel provider*” or “*VFP*” means a competitive natural gas provider or aggregator as defined in Iowa Code section 476.86 that owns or operates facilities to sell natural gas as vehicle fuel to a retail end user.

ITEM 5. Amend subrule 19.14(3) as follows:

19.14(3) *Filing requirements and application process.* ~~Applications shall be made in the format and contain all of the information required in 199—subrule 2.2(18). Applications must be filed with the executive secretary at Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. An original and ten copies must be filed. Applications for a certificate to provide service as a competitive natural gas provider shall be filed electronically through the board’s electronic filing system. Instructions for making an electronic filing can be found on the board’s electronic filing system Web site at <http://efs.iowa.gov>. Application forms can be found on the board’s Web site at <http://iub.iowa.gov> or may be requested from the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319.~~

a. An application fee of \$125 must be included with the application to cover the administrative costs of accepting and processing a filing. In addition, each applicant ~~will~~ may be billed an hourly rate for actual time spent by the board reviewing the application. Iowa Code section 476.87(3) requires the board to allocate the costs and expenses reasonably attributable to certification and dispute resolution to applicants and participants to the proceeding.

b. Applications to provide service as a competitive natural gas provider pursuant to Iowa Code sections 476.86 and 476.87 shall contain information to reasonably demonstrate that the applicant possesses the managerial, technical, and financial capability sufficient to obtain and deliver the services the competitive natural gas provider or aggregator proposes to offer. Application forms to provide competitive natural gas service to large volume, small volume, and vehicle fuel customers can be accessed on the board’s Web site, <http://iub.iowa.gov>.

c. A request for confidential treatment of the information required to obtain a competitive natural gas provider certificate may be filed with the board pursuant to 199—subrule 1.9(6).

d. An applicant shall notify the board during the pendency of the certification request of any material change in the representations and commitments ~~required by this subrule made in the application within 14 days of such change. Any new legal actions or formal complaints as identified in 199 IAC 2.2(18), numbered paragraph “4,” are considered material changes in the request. Once certified, CNGPs shall notify the board of any material change in the representations and commitments required for certification within 14 days of such change.~~

ITEM 6. Amend paragraph **19.14(5)“c”** as follows:

c. Reports to the board. Each CNGP shall file a report with the board on April 1 of each year for the 12-month period ending December 31 of the previous year. The report shall be filed on forms provided by the board, which can be accessed on the board’s Web site, <http://iub.iowa.gov>. This information may be filed with a request for confidentiality, pursuant to 199—subrule 1.9(6). ~~For each utility distribution system, the report shall contain the following information for its Iowa operations:~~

- ~~(1) The average number of small volume end users served per month.~~
- ~~(2) The average number of large volume end users served per month.~~
- ~~(3) The total volume of sales to small volume end users, by month.~~
- ~~(4) The total volume of sales to large volume end users, by month.~~

~~(5) The revenue collected from small volume end users for competitive natural gas services, excluding any revenue collected from end users on behalf of utilities.~~

~~(6) The revenue collected from large volume end users for competitive natural gas services, excluding any revenue collected from end users on behalf of utilities.~~

~~(7) The date the applicant began providing service in Iowa.~~

ITEM 7. Amend subrule 19.17(2), introductory paragraph, as follows:

19.17(2) Information required. The utility shall notify the board ~~by telephone~~ by e-mail, as soon as practical, of any reportable incident at dutyofficer@iub.iowa.gov or, when e-mail is not available, by calling the board duty officer at (515)745-2332 ~~or by e-mail at dutyofficer@iub.iowa.gov~~. The person sending the e-mail or the caller shall leave a call-back number for a person who can provide the following information:

ITEM 8. Amend paragraph **20.19(2)“a,”** introductory paragraph, as follows:

a. Notification shall be provided regarding outages that meet the requirements of subrule 20.19(1) by notifying the board duty officer by e-mail at dutyofficer@iub.iowa.gov or, in appropriate circumstances, by telephone at (515)745-2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

ITEM 9. Amend rule 199—21.9(476) as follows:

199—21.9(476) Incident reports. A regulated public water utility shall notify the board when it notifies the Iowa department of natural resources or the local county health department about an incident involving: (1) an occurrence of waterborne emergency (e.g., treatment process malfunction, chemical/biological spill in the water supply, contamination event in the distribution system, emergency that has the potential for drinking water contamination); (2) a boil water advisory and contamination event; or (3) a low-pressure event (less than 20 psi) affecting a widespread area of the system. Notification shall be made to the board by ~~calling~~ e-mail to the board duty officer at dutyofficer@iub.iowa.gov or, in appropriate circumstances, by calling (515)745-2332 ~~or by e-mail at dutyofficer@iub.iowa.gov~~. The caller person contacting the board shall leave a call-back number for a person knowledgeable about the incident. The utility shall report to the board when the incident has ended and normal water service has been restored.

ITEM 10. Amend subrule 25.5(3), introductory paragraph, as follows:

25.5(3) The board shall be notified ~~by telephone~~ immediately, or as soon as practical thereafter, by ~~calling~~ e-mail to the board duty officer at (515)745-2332 or by e-mail to dutyofficer@iub.iowa.gov or, in appropriate circumstances, by calling (515)745-2332. The caller person contacting the board shall leave a telephone number of a person who can provide the following information: